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13 Adobe Systems Inc.

14 UNITED STATES DISTRICT COURT  
15  
16 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION  
17

18 IN RE: HIGH-TECH EMPLOYEE  
19 ANTITRUST LITIGATION

20 THIS DOCUMENT RELATES TO:  
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22 ALL ACTIONS  
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**Master Docket No. 11-CV-2509-LHK**

**DECLARATION OF LIN W. KAHN  
IN SUPPORT OF RENEWED  
ADMINISTRATIVE MOTION TO  
SEAL PORTIONS OF THE EXPERT  
REPORTS OF DR. LEAMER AND  
DR. MURPHY**

Date Consolidated Amended Compl. Filed:  
September 13, 2011

1 I, Lin Wang Kahn, declare as follows:

2 1. I am an attorney with the law firm of Jones Day, counsel for Defendant Adobe  
3 Systems Inc. ("Adobe") in the above-captioned action. I am admitted to practice law before this  
4 Court. I submit this declaration in support of Defendants' Joint Renewed Administrative Motion  
5 to Seal Portions of the Expert Reports of Dr. Leamer and Dr. Murphy ("Renewed Motion to  
6 Seal"). As an attorney involved in the defense of this action, unless otherwise stated, I have  
7 personal knowledge of the facts stated in this declaration and if called as a witness, I could and  
8 would competently testify to them.

9 2. I have reviewed the Renewed Motion to Seal, the Expert Report of Edward E.  
10 Leamer, Ph.D. ("Leamer Report") (Dkt. 190), the Expert Report of Professor Kevin M. Murphy  
11 ("Murphy Report") (Dkt. 230), the Reply Expert Report of Edward E. Leamer, Ph.D. ("Leamer  
12 Reply Report") (Dkt. 249), the Supplemental Declaration of Kevin Murphy ("Supplemental  
13 Murphy Decl.") (Dkt. 263-3), and the Declaration of Dr. Edward E. Leamer ("Leamer Opp.  
14 Decl.") (Dkt. 270-1) and exhibits in support thereof.

15 3. As described below, the information requested to be sealed contains or  
16 summarizes Adobe's recruiting or compensation data, practices, strategies and policies. Adobe  
17 has designated this information as "CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant  
18 to the Protective Order in this case. (Dkt. No. 107).

19 4. The October 9, 2012 Declaration of Donna Morris In Support of Defendants' Joint  
20 Response to Plaintiffs' Administrative Motion to File Under Seal (Dkt. No. 196) ("10/9/2012  
21 Morris Decl.") establishes that Adobe's compensation data, practices, strategies and policies, as  
22 well as its recruiting data, practices, strategies and policies are confidential and commercially  
23 sensitive. As stated in the 10/9/2012 Morris Decl., it is Adobe's practice to keep such  
24 information confidential, for internal use only, and not to disclose them to the public.

25 5. Moreover, the 10/9/2012 Morris Decl. establishes that the public disclosure of this  
26 information would harm Adobe, including potentially impairing its competitive position in  
27 recruiting, hiring, and compensating employees. Morris declared that Adobe derives independent  
28 economic value from keeping its compensation data and compensation, recruiting and hiring

1 practices, strategies, and policies confidential, including keeping it from other persons and entities  
2 who could obtain economic value from its disclosure or use.

3 6. Furthermore, as noted by Morris in the 10/9/2012 Morris Decl., the public  
4 disclosure of this information, created for internal use, would give third-parties insights into  
5 confidential and sensitive aspects of Adobe's operations and deprive Adobe of its investment in  
6 developing these practices, strategies, and policies. The declaration further establishes that such  
7 disclosure would give other entities an unearned advantage by giving them the benefit of knowing  
8 how Adobe compensates employees and Adobe's compensation, recruiting, and hiring practices,  
9 strategies, and policies.

10 7. In addition to the 10/9/2012 Morris Decl., Adobe's declarations filed in support of  
11 the Opposition to Plaintiffs' Motion for Class Certification also establish the confidentiality of  
12 Adobe's compensation and recruiting data, practices, strategies and policies. In particular, the  
13 Declaration of Donna Morris of Adobe Systems Inc. in Support of the Opposition to Plaintiffs'  
14 Motion for Class Certification (Dkt. No. 215, Exhibit 14) ("11/9/2012 Morris Decl."), paragraph  
15 3, establishes that Adobe's salary and compensation data, policies and strategies are confidential  
16 and that public dissemination of that information could cause Adobe competitive harm. The  
17 Declaration of Jeff Vjungco of Adobe Systems Inc. in Support of the Opposition to Plaintiffs'  
18 Motion for Class Certification (Dkt. No. 215, Exhibit 15) ("Vjungco Decl."), paragraph 3,  
19 similarly establishes that Adobe's recruiting and hiring data, policies and strategies are  
20 confidential and that public dissemination of that information could cause Adobe competitive  
21 harm.

22 8. The confidentiality of this type of information was confirmed recently by the  
23 January 21, 2013 Declaration of Donna Morris in Support of Renewed Motion to Seal (Dkt. No.  
24 284).

25 9. Specifically, Adobe seeks to keep the following redacted portions of the exhibits to  
26 the Murphy Report under seal:

- 27 • **Exhibit 3** contains confidential information about the top twenty previous  
28 employers of Adobe's hires. This is confidential employee data that pertains to

Adobe's recruiting strategies, methodologies, and practices.

- **Appendix 1A, 1C, 2A, and 2C** contain confidential information about the number and percentage of hires at Adobe from other defendants. This is confidential employee data that pertains to Adobe's recruiting strategies, methodologies, and practices.
- **Appendix 1B, 1D, 2B, and 2D** contains confidential information about the number and percentage of separations at Adobe that went to other defendants. This is confidential employee data that pertains to Adobe's recruiting strategies, methodologies, and practices.
- **Appendices 4A and 4B** contain information about the distribution of base salaries at Adobe. This is confidential employee salary information that pertains to Adobe's compensation methods, strategies, practices and data.
- **Appendices 4C and 4D** contain information about the distribution of total compensation at Adobe. This is confidential employee salary information that pertains to Adobe's compensation methods, strategies, practices and data.
- **Appendix 5A** contains information about the distribution of total compensation for the top 10 jobs at Adobe. This is confidential employee salary information that pertains to Adobe's compensation methods, strategies, practices and data.
- **Appendix 6A** contains information about the distribution of annual changes in total compensation at Intuit for the top 10 jobs at Adobe. This is confidential employee salary information that pertains to Adobe's compensation methods, strategies, practices and data.

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1 I declare under penalty of perjury under the laws of the United States that the foregoing is  
2 true and correct. Executed this 12th day of April 2013 in Palo Alto, California.

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6 By:   
Lin W. Kahn